



**Billing Code: 3510-13**

**DEPARTMENT OF COMMERCE**

**National Institute of Standards and Technology**

**Alternative Personnel Management System (APMS) at the National Institute of Standards and Technology**

**Docket Number: [120706222-2222-01]**

**AGENCY:** National Institute of Standards and Technology, Department of Commerce.

**ACTION:** Notice of Modifications.

**SUMMARY:** This notice announces changes to the existing provisions of the National Institute of Standards and Technology's (NIST) Alternative Personnel Management System (APMS) published October 21, 1997. NIST is implementing direct-hire authority on a permanent basis for all Nuclear Reactor Operator positions in NIST's Scientific and Engineering Technician (ZT) career path at the Pay Band III and above, and for all positions in NIST's Scientific and Engineering (ZP) career path at the Pay Band III and above except for the Information Technology Management, 2210 series; the General Engineering, 801 series; and the General Physical Science, 1301 series.

**DATES:** The changes to the APMS announced in this notice are effective on [\[PLEASE INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER\]](#).

**FOR FURTHER INFORMATION CONTACT:** Susanne Porch at the National Institute of Standards and Technology, (301) 975-3000; or Valerie Smith at the U.S. Department of Commerce, (202) 482-0272.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

In accordance with Public Law 99-574, the National Bureau of Standards Authorization Act for Fiscal Year 1987, the Office of Personnel Management (OPM) approved a demonstration project plan, “Alternative Personnel Management System (APMS) at the National Institute of Standards and Technology (NIST),” and published the plan in the Federal Register on October 2, 1987 (52 FR 37082). The project plan has been modified twice to clarify certain NIST authorities (54 FR 21331 of May 17, 1989, and 55 FR 39220 of Sept. 25, 1990). The project plan and subsequent amendments were consolidated in the final APMS plan, which became permanent on October 21, 1997, 62 FR 54604. NIST first amended the plan on May 6, 2005 (70 FR 23996), to strengthen the link between pay and performance, to simplify the pay-for-performance system, and to broaden the link between performance and retention service credit for reduction in force, which became permanent upon publication. NIST amended the plan again on July 15, 2008 (73 FR 40500), to improve flexibility in rewarding new and mid-level employees and to broaden the ability to make performance distinctions and that amendment became permanent on October 1, 2008.

On December 3, 2010, the Department of Commerce approved NIST’s request to pilot direct-hire under 5 U.S.C. 3304(a)(3) for a period of one year for all positions within the Scientific and Engineering (ZP) career path at the Pay Band III and above, for Nuclear Reactor

Operator positions in the Scientific and Engineering Technician (ZT) career path at Pay Band III and above, and for all occupations for which there is a special rate under the General Schedule (GS) pay system. On January 5, 2011, a Federal Register notice was published (76 FR 539) implementing the direct-hire pilot for a period of one year. During the pilot, information was gathered on the impact of direct-hire authority on preference eligibles, as well as information supporting the finding of a severe shortage of candidates for the positions covered under the direct-hire authority.

On December 20, 2011, NIST published a Federal Register notice (76 FR 78889) extending the direct-hire pilot for an additional six (6) months. During this extended pilot period, NIST submitted a request to the Department of Commerce to implement direct-hire authority under 5 U.S.C. 3304(a)(3) on a permanent basis for Nuclear Reactor Operator positions in NIST's Scientific and Engineering Technician (ZT) career path at the Pay Band III and above, and for all positions in NIST's Scientific and Engineering (ZP) career path at the Pay Band III and above except for the Information Technology Management, 2210 series; the General Engineering, 801 series; and the General Physical Science, 1301 series. The request included a statistical analysis determining the impact of direct-hire authority on preference eligibles as well as a justification supporting the finding of a severe shortage of candidates in the covered positions. On April 20, 2012, the Department of Commerce, in consultation with OPM, approved NIST's request to implement direct-hire authority on a permanent basis for the above occupations. The Department of Commerce also granted NIST approval to continue piloting direct-hire authority for all positions in the General Engineering, 801 series and the General Physical Science, 1301 series for an additional period of twelve (12) months.

The APMS plan provides for modifications to be made as experience is gained, results are analyzed, and conclusions are reached on how the system is working. This notice formally announces the modification to the APMS and implements direct-hire authority under 5 U.S.C. 3304(a)(3) on a permanent basis.

Dated: August 8, 2012

David Robinson  
Associate Director for Management Resources

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## **I. Executive Summary**

The National Institute of Standards and Technology's (NIST) Alternative Personnel Management System (APMS) is designed to (1) improve hiring and allow NIST to compete more effectively for high-quality researchers through direct hiring, selective use of higher entry salaries, and selective use of recruiting allowances; (2) motivate and retain staff through higher pay potential, pay-for-performance, more responsive personnel systems, and selective use of retention allowances; (3) strengthen the manager's role in personnel management through delegation of personnel authorities; and (4) increase the efficiency of personnel systems through installation of a simpler and more flexible classification system based on pay banding through reduction of guidelines, steps, and paperwork in classification, hiring, and other personnel systems, and through automation.

Since implementing the APMS in 1987, according to findings in the Office of Personnel Management's (OPM's) "Summative Evaluation Report National Institute of Standards and Technology Demonstration Project: 1988-1995," NIST has accomplished the following: NIST is more competitive for talent; NIST retained more top performers than a comparison group; and NIST managers reported significantly more authority to make decisions concerning employee pay. This modification builds on this success by implementing direct-hire authority under 5 U.S.C. 3304(a)(3) on a permanent basis.

This amendment modifies the October 21, 1997 Federal Register notice. Specifically, it enables NIST to hire, after public notice is given, any qualified applicant without regard

to 5 U.S.C. 3309-3318, 5 CFR part 211, or 5 CFR part 337, subpart A on a permanent basis.

NIST will continually monitor the effectiveness of this amendment.

## **II. Basis for APMS Plan Modification**

Section 3304(a)(3) of title 5, United States Code, provides agencies with the authority to appoint candidates directly to jobs for which OPM determines that there is a severe shortage of candidates or a critical hiring need.

OPM's direct-hire authority enables agencies to hire, after public notice is given, any qualified application without regard to 5 U.S.C. 3309-3318, 5 CFR part 211, or 5 CFR part 337, subpart A. NIST's APMS allows the NIST Director to modify procedures if no new waiver from law or regulation is added. Given this modification is in accordance with existing law and regulation, the NIST Director is authorized to make the changes described in this notice. The modification to our final Federal Register notice, dated October 21, 1997, with respect to our Staffing authorities is provided below.

In 1987, with the approval of the NIST APMS (52 FR 37082), and in 1997, when the APMS plan was modified (62 FR 54604), OPM concurred that all occupations in the ZP career path at the Pay Band III and above constitute a shortage category; Nuclear Reactor Operator positions in the ZT Career Path at the Pay Band III and above constitute a shortage category; and all occupations for which there is a special rate under the General Schedule pay system constitute a shortage category.

## **III. Changes in the APMS Plan**

The APMS at NIST, published in the Federal Register on October 21, 1997 (62 FR 54604) is amended as follows:

1. The subsection titled: “Direct Examination and Hiring” is deleted.
2. The subsection titled: “Direct Hire: Critical Shortage Highly Qualified Candidates” is deleted.
3. The information under the subsection titled: “Direct Hire: Critical Shortage Occupations” is replaced with:

NIST uses direct-hire procedures for categories of occupations which require skills that are in short supply. All Nuclear Reactor Operator positions at the Pay Band III and above in the ZT Career Path constitute a shortage category, and all occupations at the Pay Band III and above in the ZP Career Path constitute a shortage category except for the Information Technology Management, 2210 series; the General Engineering, 801 series; and the General Physical Science, 1301 series. Any positions in these categories may be filled through direct-hire procedures in accordance with 5 U.S.C. 3304(a)(3). NIST advertises the availability of job opportunities in direct-hire occupations by posting on the OPM USAJOBS website. NIST will follow internal direct-hire procedures for accepting applications.

4. The subsection titled: “NIST Applicant Supply File” is deleted.
5. The subsection titled: “Referral Procedures for Direct Examination and Hiring and Agency Based Staffing Authorities” is deleted. The information under this subsection titled: “1. Direct Referral” and “2. Rating and Ranking” is also deleted.
6. A new subsection titled: “Referral Procedures for Direct-Hire” is added and the information under this subsection is as follows: After public notice is given, a qualified candidate may be referred without regard to 5 U.S.C. 3309-3318, 5 CFR part 211, or 5 CFR part 337, subpart A.

NIST intends to publish a consolidated plan that reflects all amendments to the APMS in FY13.

